



NEWS REPORT

Date: 20 June 2010
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Title: The Ombudsman criticises the process of handling labour disputes between migrant employees and their Cypriot employers.
Country: Cyprus

Context

Issue at stake: The Ombudsman finds that the lack of framework in the handling of labour disputes between migrant workers and their employers has led to racism and discrimination against migrants.

Ground of discrimination: Race/ ethnic origin

Source: Ombudsman's report

Field: Employment

Legislative provisions: N/A

Content

Case: During the past three years, several complaints were filed at the Ombudsman/equality body against the mediation procedure of the labour office which examines complaints of migrant workers against their employers. The complaints pointed out delays in issuing decisions, the unequal and discriminatory treatment of migrants during the process of investigating labour disputes, the inefficient investigation of the allegations of the plaintiffs, the non-provision of interpreters during the hearing and other general malfunctioning of the process of resolving labour disputes involving migrant workers. The vast majority of the complaints originated from female migrant domestic workers who form by far the largest category of workers amongst the migrant labour force.

Decision of the Equality Body: From the equality body's investigation it emerged that many of the problems are due to the uncertainty of the regulatory framework. In some cases when migrant workers complained to the police for violation of their employment contract, the police chose to take the case to the Criminal Court instead of referring it to the Labour office, with the plaintiff being the accused. When the migrant workers' testimony was no longer needed, then they would be deported without their allegations having ever been investigated.

At the level of the labour office procedure, the officials did not make the necessary effort to investigate the allegations of the migrant workers even for the most obvious contractual violations and viewed all allegations made by migrants with suspicion. By contrast, they took the employer's allegations for granted without investigation, demonstrating a clear pro-employer bias even where the employer's contractual violation were more than obvious. Often, the labour dispute was investigated without taking into consideration the position of power of the employer over the employee and the latter's lack of choice when instructed by the employer to perform work outside his/her contractual obligations. Also, whilst compliance by migrants with the instructions of the immigration authorities is closely monitored, compliance by the employer is not. As a result, the sums due by the employer to the migrant often remained unpaid and the migrant worker was deported without being able to recover the sums due to him/her. The report concluded that the absence of a specific institutional framework for the resolution of these disputes has often led to the phenomena of racism and unlawful discrimination by the labour office officials against migrant workers who file complaints against their employers. Of particular concern are the inflexible regulations for the change of employer in the event of labour disputes, which often leads to the annulment of the migrant employees' visas, their deportation and the placing of their names on the 'Stop List', which will prevent them from entering the country again. The equality body recommended that: (a) a new regulatory framework is designed, having in mind the particular circumstances and needs of the female domestic workers and especially the particular nature of their work, the flexible and uncontrolled delimitations of their hours of work and their place of stay (as they are residing in the employer's home), the restrictions in their personal lives and the gender dimension; (b) the role, duties and tasks of the labour office be determined and delimited and its mediation function be reinforced; (c) the principle be established that the cancellation of the migrants' visas and their deportation must be avoided; (d) a new manual is issued covering all stages of the procedure and the officers investigating complaints be adequately trained to avoid unfounded conclusions, pro-employer bias and decisions influenced by social prejudices; (e) a special leaflet is issued explaining the procedure and the rights of each side which must be translated in the major languages spoken by migrants in Cyprus and be handed to employees and employers upon the filing of their complaint at the labour office.